



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

Via Electronic Mail To: Steve@sanisport.ca

Docket No. F-02-2020-5033

Steve Silver
6157866 Canada Inc DBA Sani Sport
510 Rue Hodge
St-Laurent, QC, Canada H4N 2A4

Re: NOTICE OF REFUSAL OF ADMISSION

Import of Sani Sport VE/Sani Defenx, Entry No. WFN-8717739-6

Dear Mr. Silver:

In connection with the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA" or "the Act"), as amended, 7 U.S.C. § 136, et seq., the United States Environmental Protection Agency – Region 2 ("EPA" or the "Region") has examined samples or other evidence with respect to the following shipment:

Product Name: Sani Sport VE / Sani Defenx

EPA Reg. No.: None

EPA Est. No.: 85815-CAN-1

Importer: Sani Sport

Entry Number: WFN-8717739-6

Bill Number: ODFL24501963565

Arrival Date: 06/16/2020

NOA Submitted: 06/17/2020

Port of Entry: 0712 – Champlain, New York

Units: 1

You were previously notified via a Notice of Detention and Hearing ("NOD"), dated June 24, 2020, that the above-referenced product appears to be out of compliance with the Act and therefore subject to refusal of admission. Specifically, you were told that because the SaniSport product incorporates a hydrogen peroxide solution, packaged with the unit, which is needed to perform the product's pesticidal purpose, the product must be registered as a pesticide under FIFRA § 3(a), 7 U.S.C. § 136a(a) to be lawfully distributed in the United States. The combination of the solution with the instrument is not registered under FIFRA § 3(a), 7 U.S.C. § 136a(a). Unregistered pesticides are prohibited from sale and distribution in the U.S. by FIFRA § 12(a)(1)(A), 7 U.S.C. § 136j(a)(1)(A).

The NOD further afforded you an opportunity to explain why the shipment should not be destroyed or refused entry. No material demonstrating that the product is in compliance with the Act and eligible for entry has been submitted to EPA. Instead, on July 1, 2020, you sent an email response to the NOD in which you said you believe this product to be a pesticide device, due to its function as an ozone generator, combined with pesticide application equipment for the hydrogen peroxide solution. Because the product is packaged with a hydrogen peroxide solution for use with the device, EPA maintains that the product needed to be registered as a pesticide in order to be lawfully distributed in the United States. Additionally, your July 1, 2020 response clarified that the hydrogen peroxide solution shipped is a registered pesticide, EPA Reg. No. 74559-1, but was shipped bearing a label other than the one approved as part of its registration. The solution in the shipment referred to above is therefore misbranded, as that term is defined by Section 2(q) of FIFRA, 7 U.S.C. §136(q). Misbranded pesticides are prohibited from sale and distribution in the U.S. by FIFRA § 12(a)(1)(E), 7 U.S.C. § 136j(a)(1)(E). The import of this shipment into the US thus constitutes an unlawful act under FIFRA §§ 12(a)(1)(A) & (E), 7 U.S.C. §§ 136j(a)(1)(A) & (E).

EPA therefore hereby notifies you that your merchandise has been refused admission. You must export this merchandise, under supervision of the U.S. Customs and Border Protection (CBP) and within ninety (90) calendar days from the date of this Notice or within such additional time as EPA or the District Director of CBP specifies or dispose of the products. Failure to do so may result in either the destruction of the merchandise as authorized by the Act, or, if the shipment has been released to you under bond, in any action necessary to enforce the terms of said bond.

EPA acknowledges that the COVID-19 pandemic may be impacting your business. If that is the case, we will consider your specific circumstances in determining an appropriate timeline for complying with this notice, while still ensuring that the Agency receives the information it needs to timely confirm your company's compliance with FIFRA; such consideration does not extend to allowing the shipment and distribution of misbranded products into the United States.

If you have any questions, please contact Michael Brannick at 732-321-4349 or brannick.michael@epa.gov.

Sincerely,

for Dore LaPosta, Director
Enforcement & Compliance Assurance Division

cc: Lawrence Cullen, Arnold & Porter (lawrence.cullen@arnoldporter.com)
Ayla Myers, Metro Customs Brokerage (amyers@omnitrans.com)
Michelle Garrow, Metro Customs Brokerage (mgarrow@metrocb.com)
Sarah Sawyer, U.S. Customs and Border Protection (sarah.l.sawyer@cbp.dhs.gov)